

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ABDIRAHMAN AHMED**

4015 Fremont Avenue N,  
Minneapolis, MN 55412

Plaintiff,

v.

**WESTERN EXPRESS, INC.**

C/O John L. Alden,  
Statutory Agent  
1160 Dublin Road, Suite 400,  
Columbus, Ohio 43215

and

**JAMES MCNEILL**

431 Virginia Street,  
Tappahannock, VA 22560

Defendants.

Case No.: 2:20-cv-6106

Judge

**COMPLAINT WITH JURY DEMAND  
ENDORSED HEREON**

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*Attorneys for Plaintiffs*

Abdirahman Ahmed files the following complaint.

**OVERVIEW**

On or about June 18, 2020, Plaintiff Abdirahman Ahmed was traveling northeast in the right lane of I-71 in Kingston Township, Delaware County, Ohio. At or about the same time, Defendant James McNeill pulled into the right lane of I-71 from the right berm, in front of Plaintiff. Plaintiff was unable

to stop due to the sudden appearance of Defendant from the side of the road, and struck the rear of the 2019 International tractor-trailer owned by Defendant Western Express, Inc. causing Abdirahman Ahmed to sustain multiple injuries, including but not limited to his head, face, jaw, neck, shoulders, back, arms, legs, feet, and hands.

### **PARTIES**

1. Abdirahman Ahmed is a domiciliary and citizen of the State of Minnesota, residing in Hennepin County.
2. Defendant Western Express, Inc. is a for-hire motor carrier operating commercial motor vehicles transporting property in interstate commerce. It is registered with the Federal Motor Carrier Safety Administration with a USDOT number of 511412 and is a business entity organized and existing under the laws of the State of Tennessee. Defendant Western Express, Inc. has designated John L. Alden, located at 1160 Dublin Road, Suite 400, Columbus, Ohio 43215 as its agent for the purposes of service of process of this complaint under 49 C.F.R. §366.
3. Defendant James McNeill resides at 431 Virginia Street, Tappahannock, VA 22560. He is a domiciliary and citizen of the State of Virginia.

### **JURISDICTION and VENUE**

4. Plaintiffs' claims are brought under 28 U.S.C. § 1332(a)(1), based upon diversity of citizenship.

5. Since Plaintiff is a citizen of Minnesota, no Defendant is also a citizen of Minnesota and the amount in controversy (exclusive of costs and interest) exceeds \$75,000, diversity jurisdiction exists in this Honorable Court.
6. Venue is appropriate in this Court as this action arises from a motor vehicle accident occurring in Kingston Township, Delaware County, Ohio, which is located in this judicial district.

### **BACKGROUND FACTS**

7. On or about June 18, 2020, Plaintiff Abdirahman Ahmed was traveling northeast in the right lane of I-71 in Kingston Township, Delaware County, Ohio. At or about the same time, Defendant James McNeill pulled into the right lane of I-71 from the right berm, in front of Plaintiff. Plaintiff was unable to stop due to the sudden appearance of Defendant from the side of the road, and struck the rear of the 2019 International tractor-trailer owned by Defendant Western Express, Inc. causing Plaintiff Abdirahman Ahmed to sustain multiple injuries, including but not limited to his head, face, jaw, neck, shoulders, back, arms, legs, feet, and hands.

### **FIRST CAUSE OF ACTION**

#### *Negligence of Defendant James McNeill*

8. Plaintiff Abdirahman Ahmed was traveling northeast in the right lane of I-71 in Kingston Township, Delaware County, Ohio. At or about the same time, Defendant James McNeill pulled into the right lane of I-71 from the right berm, in front of Plaintiff. Plaintiff was unable to stop due to the

sudden appearance of Defendant from the side of the road, and struck the rear of the 2019 International tractor-trailer owned by Defendant Western Express, Inc.

9. Defendant James McNeill had a duty to drive his semi-tractor trailer in a safe and reasonable manner, to obey all traffic laws, obey all traffic devices, and maintain control of his vehicle.
10. On June 18, 2020, Defendant James McNeill failed in the above-mentioned duties and is therefore negligent.
11. Defendant James McNeill's negligence was the direct and proximate cause of Abdirahman Ahmed's injuries, including but not limited to his head, face, jaw, neck, shoulders, back, arms, legs, feet, and hands.
12. As a direct and proximate result of the negligence of all defendants, Plaintiff Abdirahman Ahmed has lost past and future wages and his earning capacity has been diminished.
13. As a direct and proximate result of Defendant James McNeill's negligence, Plaintiff Abdirahman Ahmed incurred medical bills for the treatment of his injuries directly resulting from this collision.
14. As a direct and proximate result of Defendant James McNeill's negligence, Plaintiff Abdirahman Ahmed experienced physical and mental pain and suffering and lost the ability to perform usual activities, resulting in a diminished quality of life.

**SECOND CAUSE OF ACTION**

*Statutory Violations of Defendant James McNeill*

15. All allegations and causes of action above are incorporated into this cause of action by reference.
16. Defendant James McNeill violated state and federal statutes and regulations, including but not limited to 49 C.F.R. §§ 350-399, and O.A.C. 4901:2-5-02 through 4901:2-5-08.
17. Defendant James McNeill's statutory violations directly and proximately caused Plaintiff Abdirahman Ahmed's damages and injuries.
18. Defendant James McNeill is negligent *per se* based on these statutory and regulatory violations.
19. Defendant James McNeill's actions demonstrate a conscious disregard for the rights and safety of Abdirahman Ahmed and the rest of the motoring public, acting with reckless indifference to the consequences to others despite being aware of his conduct and knowing there was a great probability of causing substantial harm. Accordingly, Plaintiff Abdirahman Ahmed demands punitive damages against Defendant James McNeill.

**THIRD CAUSE OF ACTION**

*Vicarious Liability of Defendant Western Express, Inc.*

20. All allegations and causes of action above are incorporated into this cause of action by reference.

21. At all relevant times, Defendant James McNeill was the employee, agent, servant, or independent contractor for Defendant Western Express, Inc. Accordingly, Defendant Western Express, Inc. is vicariously liable for the acts of Defendant James McNeill described in the causes of action above.
22. Regardless of the employment or agency relationship, Defendant Western Express, Inc. is an interstate motor carrier and the registered owner of the USDOT number 511412 displayed on the tractor-trailer involved in this collision and is therefore responsible for the acts of the defendant driver.

**FOURTH CAUSE OF ACTION**

*Negligence of Defendant Western Express, Inc.*

23. All allegations and causes of action above are incorporated into this cause of action by reference.
24. Defendant Western Express, Inc. had a duty to act reasonably in hiring, instructing, training, supervising and retaining its drivers and other employees and agents, including Defendant James McNeill, and to promulgate and enforce policies, procedures, and rules to ensure that its drivers and vehicles were reasonably safe.
25. Defendant Western Express, Inc. had a duty to exercise reasonable care in entrusting its vehicles and equipment to responsible, competent, and qualified drivers.

26. Defendant Western Express, Inc. failed in the above-mentioned duties and was therefore negligent.
27. Defendant Western Express, Inc.'s negligence was the direct and proximate cause of Plaintiff Abdirahman Ahmed's injuries and the damages described in this Complaint.

**FIFTH CAUSE OF ACTION**

*Statutory Violations of Defendant Western Express, Inc.*

28. All allegations and causes of action above are incorporated into this cause of action by reference.
29. Defendant Western Express, Inc. violated state and federal statutes and regulations, including but not limited to 49 C.F.R. §§ 350-399 and O.A.C. 4901:2-5-02 through 4901:2-5-08. These regulations were promulgated to protect the safety of a class of people that includes Plaintiff Abdirahman Ahmed.
30. Defendant Western Express, Inc.'s statutory violations directly and proximately caused Plaintiff Abdirahman Ahmed's damages and injuries.
31. Defendant Western Express, Inc. is negligent *per se* based on these statutory and regulatory violations.
32. Defendant Western Express, Inc.'s actions demonstrate a conscious disregard for the rights and safety of Plaintiff Abdirahman Ahmed and the rest of the motoring public, acting with reckless indifference to the consequences to others despite being aware of its conduct and knowing

there was a great probability of causing substantial harm. Accordingly, Plaintiff demands punitive damages against Defendant Western Express, Inc.

**WHEREFORE**, Plaintiffs respectfully requests judgment in their favor and against all Defendants, in an amount that is just and fair and in excess of seventy-five thousand dollars (\$75,000.00) (exclusive of costs and interest), in addition to punitive damages, costs and other relief that this Honorable Court deems just under the circumstances.

Respectfully submitted,

/s/ Joshua M Leizerman  
Joshua M Leizerman  
Attorney for Plaintiff

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury on all triable issues.

/s/ Joshua M Leizerman  
Joshua M Leizerman  
Attorney for Plaintiff